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Southern District of New York  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PUBLIC PATENT FOUNDATION, INC.,

Plaintiff,

v.

McNEIL-PPC, INC.,

Defendant.

UNITED STATES OF AMERICA,

Intervenor.

09 Civ. 5471 (RJH)

**DECLARATION OF  
ALLISON D. PENN**

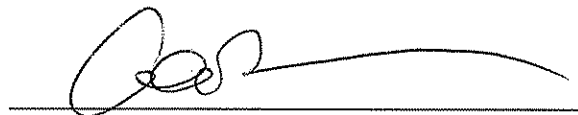
ALLISON D. PENN, pursuant to the provisions of 28 U.S.C. § 1746, declares as follows:

1. I am an Assistant United States Attorney in the office of Preet Bharara, United States Attorney for the Southern District of New York, attorney for intervenor the United States of America (“intervenor” or the “Government”) in this action. I am the attorney assigned to the defense of this matter.

2. I submit this declaration in support of the United States' memorandum of law defending the constitutionality of 35 U.S.C. § 292.

3. Appended as exhibit A hereto is a true and complete copy of the following document: The transcript of the district court's oral decision in *Harrington v. Ciba Vision Corp.*, No. 3:08-cv-251 (W.D.N.C. May 22, 2009).

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read 'Allison D. Penn', is written over a horizontal line.

ALLISON D. PENN  
Assistant United States Attorney

Dated: New York, New York  
November 30, 2009